

JUDICIARY RULES COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2008 Legislative Session

IDAPA 06 - BOARD OF CORRECTION

06.01.01 - Rules of the Board of Correction

Docket No. 06-0101-0701	2
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JUDICIARY RULES COMMITTEE

IDAPA 06 - BOARD OF CORRECTION

06.01.01 - RULES OF THE BOARD OF CORRECTION

DOCKET NO. 06-0101-0701

NOTICE OF PROCLAMATION OF RULEMAKING - FINAL RULE

EFFECTIVE DATE: The effective date of this rule is October 5, 2007.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated rulemaking procedures. Section 20-212, Idaho Code, requires the Idaho State Board of Correction to make rules. Pursuant to Section 20-212(1), Idaho Code, rules of the Idaho State Board of Correction are subject to review of the Idaho State Legislature pursuant to Sections 67-454, 67-5291, and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the Board, except as otherwise specifically provided by statute. In accordance with Section 20-212(1) of the Idaho Code, this rule shall become final and effective thirty (30) days after the date of publication in the Idaho Administrative Bulletin.

PUBLIC HEARING SCHEDULE: Pursuant to Section 20-212(1), Idaho Code, public hearing(s) concerning this rulemaking will not be scheduled.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is necessary to reflect current Idaho Department of Correction (IDOC) practices, standards, policies, procedures, and directives. Board of Correction rules have not been amended since 2002. Changes consist of amendments to or about 19 different major sections and/or subsections. Most of the changes are minor and consists of amendments to Sections 106, 108, 110, 116, 123, 135, 601, and 607. Changes in these sections are necessary to clarify processes or requirements or to reference a section to other sections that are closely associated.

The remaining changes are major and consist of amendments to sections 005, 010, 134, 137, 302, 402, 403, 405, 510, 511, 604, 606, and 608. Changes in these sections are necessary to reflect current processes and procedures (e.g. housing inmates, mail handling, inmate religious practices, searches of persons and vehicles, visiting, and volunteer services), revise terminology and definitions in order to make consistent with Department policies and procedures, and remove those sections that no longer impact public rights, interests, or privileges.

FEE SUMMARY: There is no increase in fees imposed with this rulemaking. N/A

FISCAL IMPACT: There is no fiscal impact on general funds for this rulemaking. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because Section 20-212(1) exempts the Idaho State Board of Correction from conducting negotiated rulemaking.

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lorenzo Washington, Policy Program Coordinator, at (208) 658-2115.

DATED this 8th day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE FINAL RULE

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Street Address. The Board of Corrections' ~~headquarters~~ administrative office and the Idaho Department of Correction are located at ~~the central office location of the Idaho Department of Correction, 1299 North Orchard Avenue St., Suite 110, Boise, Idaho 83706-2266.~~ Business hours are typically 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. ~~Mail regarding the Board of Correction rules should be directed to the Board of Correction, attention Administrator, Institutional Services Division, 1299 North Orchard Avenue, Suite 110, Boise, Idaho 83706.~~ (7-6-01)(10-5-07)

02. Mailing Address (Board of Correction). Mail regarding the Board of Corrections' rules shall be directed to the Board of Correction, attn: management assistant, office of the director, 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. (10-5-07)

03. Mailing Address (Dept. of Correction). Mail regarding the Idaho Department of Correction shall be sent to 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. (10-5-07)

04. Telephone Number. The telephone number of both the Board and Department is (208) 658-2000. (10-5-07)

05. Facsimile Number. Faxes shall be sent directly to the person, division, bureau, or unit as requested. If the fax number is not provided by the person, division, bureau, or unit, contact the Department's main reception at (208) 658-2000 to obtain the fax number. (10-5-07)

06. Internet Website. The Department's Internet website can be found at <http://www.idoc.idaho.gov/>. (10-5-07)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

~~**01. Administrator.** The exempt employee in authority over a division of the Department.~~ (11-5-99)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

021. Archival Research. Research requiring access to stored historical data, files, documentation, video or audio tapes, electronically sorted data, or written material. (11-5-99)

032. Attorney of Record. An attorney appointed by a court or retained by an inmate in a legal action. (11-5-99)

043. Board. The State Board of Correction. (11-5-99)

054. Case Management File. A collection, in either hand or electronic form, of legal documents, reports, submissions, statements, and support materials used in making decisions about an inmate (offender), parolee, or probationer regarding classification, treatment, programming, management, and parole, or clemency ~~decisions~~. (11-5-99)(10-5-07)

05. Chief. The exempt employee in authority over a division of the Department. Chief is commonly referred to as the division chief. (10-5-07)

06. ~~Confidential Mail.~~ ~~Is mail to or from the president, the governor, the Attorney General or any Assistant or Deputy Attorney General, the Idaho legislature or Congress (except for bulk mailings), the courts, attorneys (except for bulk mailings), the Board, the director, and Department administrators and facility heads.~~ **Commission of Pardons and Parole.** The decision-making body that has the authority to grant, revoke, reinstate, or refuse parole. The Commission of Pardons and Parole is commonly referred to as the Parole Commission. (11-5-99)(10-5-07)

07. Contact Visiting. Visiting ~~with an inmate~~ where ~~there are~~ no physical barriers ~~between~~ partition, such as a window or wall, separates the visitor and the inmate, ~~and the inmate and visitor~~ Physical touch may be allowed to touch. (11-5-99)(10-5-07)

08. Contraband. Any thing, of any kind, ~~which~~ that is prohibited by Board, Department, or facility rules, policies, ~~procedures, or~~ directives, ~~or standard operating procedures.~~ Contraband also includes any thing, of any kind, ~~which~~ that a facility head has not approved; (10-5-07)

a. ~~f~~For possession by an inmate; or ~~which a facility head has not approved~~ (10-5-07)

b. ~~t~~To bring ~~in to~~ into a facility or ~~on to~~ onto ~~d~~Department property. (11-5-99)(10-5-07)

09. Contractor. A person who has entered into a contract with the Board or Department, or a contract with the State of Idaho administered by the Board or Department to provide any service. (11-5-99)

10. ~~County Jail.~~ ~~A detention or holding facility operated by the sheriff of a county.~~ (11-5-99)

140. Department. The State Department of Correction. (11-5-99)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

121. Department Property. Real property owned, ~~or~~ leased, ~~and~~ operated, or managed by the Board or Department. ~~(11-5-99)~~(10-5-07)

132. Directive. A sequence of steps within a particular division to implement a procedure. (11-5-99)

143. Director. The director of the Department of Correction. (11-5-99)

154. Division. An operating unit of the Department. ~~The~~ Department divisions are: the divisions of Prisons, Community Corrections, Education and Treatment, and Management Services. ~~(11-5-99)~~(10-5-07)

~~a. Operations, comprised of Community Corrections, Correctional Industries, Prisons, and Programs; and~~ (9-6-02)

~~b. Support, comprised of Evaluation and Compliance, Human Resource Services, and Management Services.~~ (9-6-02)

165. Execution. The carrying out of a sentence of death. (11-5-99)

176. Facility. A building or residence, including the property and land where the building or residence is located, owned, ~~or~~ leased, ~~and~~ operated, or managed by the Board or Department. ~~(11-5-99)~~(10-5-07)

187. Facility Head. The person ~~with~~ primarily ~~responsibility to~~ responsible for overseeing, managing or operating a Department facility. ~~(11-5-99)~~(10-5-07)

198. Field Memoranda. Detailed guidelines to implement directives within a facility or a service unit of a division. (11-5-99)

~~20. General Mail. All mail other than confidential mail.~~ (11-5-99)

219. Health Authority. The Department employee ~~with primary responsibility to oversee~~ who is primarily responsible for overseeing or managing the Department's medical and mental health services. The health authority is commonly referred to as the medical services manager. ~~(11-5-99)~~(10-5-07)

220. Immediate Family -- Offender. The immediate family of an inmate is: ~~(11-5-99)~~(10-5-07)

a. The mother or father of the inmate, including step parent; (11-5-99)

b. The brother or sister of the whole or half (1/2) blood or by adoption, or the stepbrother or stepsister of the inmate; (11-5-99)

c. The wife or husband of the inmate, as proved by marriage license or other operation of law; (11-5-99)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

- d. The natural child, adopted child or stepchild of the inmate; (11-5-99)
- e. The grandparents of blood relation to the inmate; or (11-5-99)
- f. The grandchildren of blood relation to the inmate. (11-5-99)
- ~~23. **Intern.** A Student of a recognized college or university who may be involved in a course of study or research project conducted within a facility or service area under the authority of the Board.~~ (11-5-99)
- 241. Inmate.** An individual in the physical custody of the Board. (11-5-99)
- ~~25. **Inmate Visitor.** A member of the public who is approved to visit with an inmate at a Department facility.~~ (11-5-99)
- ~~26. **Legal Assistant.** A person who has been granted permission by the facility head or designee to assist an inmate in a specific legal matter and who is a law student or an employee of an attorney of record, or an employee of a local, state or federal court, or an employee of a legal aid service.~~ (11-5-99)
- 272. Literature.** Notices, placards, banners, advertisements, and other writings not generated by the Department for Department distribution. (11-5-99)
- 283. Minor.** An individual less than eighteen (18) years old. (~~11-5-99~~)(10-5-07)
- 294. Noncontact Visiting.** Visiting with an inmate where there are physical barriers between the visitor and the inmate and the inmate and visitor are not allowed to touch. Verbal communication is generally accomplished through telephones, speakers, or openings in the physical barrier designed to allow sound to pass. (11-5-99)
- ~~30. **Obscene.** Material is considered obscene if it:~~ (11-5-99)
 - ~~a. Portrays physical contact of a person with the sexual organs of another by genital-genital, oral-genital, digital-anal, digital-genital, anal-genital contact;~~ (11-5-99)
 - ~~b. Portrays the insertion of foreign objects into the anus or vagina;~~ (11-5-99)
 - ~~c. Portrays the discharge of bodily fluids;~~ (11-5-99)
 - ~~d. Portrays bestiality;~~ (11-5-99)
 - ~~e. Portrays sexual contact with a minor under age eighteen (18) or a person who appears to be under the age of eighteen (18);~~ (11-5-99)
 - ~~f. Portrays violent activity in a sexual context; or~~ (11-5-99)
 - ~~g. Portrays an act where one (1) of the participants appears to be non-consenting to the act.~~ (11-5-99)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

3425. Offender. A person under the legal care, custody, supervision, or authority of the Board, including a person within or without the State pursuant to agreement with another state or a contractor. (11-5-99)

~~32. Parole Commission. The Idaho Commission of Pardons and Parole.~~ (11-5-99)

3326. Parolee. An offender who: (10-5-07)

a. ~~Is released from a facility to a period of supervision upon grant of parole by a the~~
paroling authority prior to the completion of his sentence; (11-5-99)(10-5-07)

b. Agrees to comply with certain conditions established by the paroling authority;
and (10-5-07)

c. Remains under the control of a parole officer for the established period of
supervision. (10-5-07)

3427. Penological Interests. The security, programmatic, and rehabilitative interests of the Board and the Department. (11-5-99)

3528. Person. An individual, corporation, governmental entity or organization, however organized or constituted. (11-5-99)

3629. Photo Identification. A state issued driver's license, a state issued identification card displaying a photograph, a military issued identification card displaying a photograph, or a current valid passport. (11-5-99)(10-5-07)

370. Post Order. A detailed set of guidelines and procedures for each post or area of employee assignment which governs and explains the duties of the employee assigned to the post or area of responsibility. (11-5-99)

381. Probationer. An offender who ~~is placed on a period of supervision on probation by a court of competent jurisdiction~~ the courts allow to continue to live and work in the community, instead of being sent to prison, while being supervised by a probation officer (PO) for an established period of time. (11-5-99)(10-5-07)

392. Procedure. A sequence of steps or actions to be followed to implement and support a rule or policy. (11-5-99)

4033. Public. A person, ~~in~~ of the general public; ~~For purposes of these rules public that~~ does not include offenders, contractors, vendors, volunteers, interns, or the employees of the Board, Department, or ~~Parole~~ the Commission of Pardons and Parole. (11-5-99)(10-5-07)

4134. Public Information Officer. An employee of the Department designated by the director to be the primary contact person from whom the public and media may request information. (11-5-99)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

~~4235. Research Activities~~ **Regular Volunteer.** ~~Activities which systematically investigate a phenomenon or series of phenomena~~ Any approved person, not employed by the Idaho Department of Correction (IDOC), who is at least eighteen (18) years of age and, of his own free will, provides good or services, for no monetary or material gain, to a facility and/or any of its sections. This person must: ~~(11-5-99)~~(10-5-07)

a. Completed an application; (10-5-07)

b. Receive volunteer and facility orientation training; and (10-5-07)

c. Be approved by a facility head or designee. (10-5-07)

~~43. Research on Human Subjects.~~ ~~Research requiring access to, and participation of, employees of the Department or offenders.~~ ~~(11-5-99)~~

36. Student Intern Volunteer. An approved college or university student who, as part of an academic program, offers his time or services to help enhance the mission, activities, and programs of the Department, which also helps further his professional development. Some student interns may receive compensation from the Department. (See also Regular Volunteer.) (10-5-07)

4437. Tobacco Products. Cigarettes, whether packaged or hand rolled, cigars, snuff, chew, or any other variation of a product containing tobacco. (11-5-99)

4538. Vendor. A person who supplies goods or services to the Board or any operation or facility under the authority of the Board. (11-5-99)

4639. Visiting Staff. Employees of the Department or the *Parole* Commission of Pardons and Parole conducting business in the Department central office building on a regular or irregular basis. ~~(11-5-99)~~(10-5-07)

470. Visitor. A member of the public, as defined herein, who is approved to visit a ~~Department~~ facility. ~~(11-5-99)~~(10-5-07)

481. Volunteer. An approved person who ~~has~~ volunteered or donated time or services to the Board or a Department operation or facility. ~~(11-5-99)~~(10-5-07)

492. Work Site. Any place where inmates may be found when assigned to a work project. (11-5-99)

(BREAK IN CONTINUITY OF SECTIONS)

106. SERVICE OF PROCESS ON DEPARTMENT EMPLOYEES.

The Board authorizes and directs that all service of summons, ~~and~~ complaints, and subpoenas

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

against or upon the Board, the Department, or any employee of the Department for or related to a cause of action arising out of or related to the scope and course of the actions, duties, or employment of the Board, the Department, or any employee of the Department shall be made upon the deputy attorneys general assigned to the Department in the manner and form required by state and federal rules of procedure. ~~(11-5-99)~~(10-5-07)

107. (RESERVED).

108. IDAHO PUBLIC RECORDS ACT.

01. Intent of the Board. It is the intent of the Board that the records of the Department shall be open to the public for inspection and copying at all reasonable times, unless the records or information contained therein is specifically exempted from disclosure by state or federal statute or court rule. It is the further intent of the Board to implement the exemptions for Department records as set forth in the Idaho Public Records Act. The Board has determined that disputes over denials or partial denials of public records requests should be resolved informally whenever possible. (1-4-02)

02. Public Records Requests. The Department shall develop guidelines and procedures for processing public records requests. The guidelines and procedures shall include the following: (1-4-02)

a. A written request for records of the Department shall be required; and (1-4-02)

b. If any Department record contains information that is not exempt from disclosure as well as information which is exempt from disclosure, the Department shall separate the exempt and non-exempt information and make the non-exempt information available for public inspection and copying. (1-4-02)

03. Custodian of Records. Certain Department employees are designated as official custodians of Department records. The employees designated as official custodians of the Department records may delegate duties and responsibilities of the custodians in order to more efficiently process public records requests. For purposes of this section, official custodians for records of the Department shall be: (1-4-02)

a. The director; (1-4-02)

b. The public information officer; (11-5-99)

c. The central records manager; (11-5-99)

d. The ~~administrators~~ chiefs of the divisions; ~~and~~ ~~(1-4-02)~~(10-5-07)

e. The facility heads; and ~~(1-4-02)~~(10-5-07)

f. The policy program coordinator. (10-5-07)

04. Records Exempt from Disclosure. In order to protect information consistent with

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

**Docket No. 06-0101-0701
FINAL RULE**

the public's interest in confidentiality, public safety, security, and the habilitation of offenders, the Board has identified records of the Department to be exempt from disclosure in whole or in part. These records include, but are not limited to: (1-4-02)

- a. Records to be exempt in their entirety: (1-4-02)
 - i. Records of the Department that define specific building design details, such as facility blueprints, that if disclosed would jeopardize public safety and the security of the facility; (1-4-02)
 - ii. Records of the Department that define specific operations used to respond to and control emergencies, such as emergency plans, that if disclosed would interfere with the secure and orderly conduct of Department operations; (1-4-02)
 - iii. Records of the Department that define site-specific security operations, such as facility security procedures and site-specific post orders, that if disclosed would jeopardize public safety and the security of the facility; (1-4-02)
 - iv. Records containing information specific to the habilitation of any offender, including information tracking the behavior, progress or digression of a particular offender under the legal care, custody, supervision or authority of the Board, including a person within or without the state pursuant to an agreement with another state or a contractor. Notwithstanding this exemption, records of this nature specific to inmates sentenced to death shall be available to counsel of record for inmates sentenced to death, subject to redaction; (1-4-02)
 - v. Records of an offender when requested by another offender. For purposes of Subsection 108.04 the term offender shall not be construed to include a prisoner, probationer or parolee who has completed his sentence of incarceration or term of probation or parole; (1-4-02)
 - vi. Offender academic records. Notwithstanding this exemption, consistent with Family Educational Rights and Privacy Act, FERPA, 34 C.F.R. part 99, an offender's academic records shall be disclosed to school officials, including teachers, having legitimate educational interests. Further, an offender's academic records shall be disclosed to the offender's attorney of record in his criminal case, provided that the attorney first submit a release, on his letterhead, signed by the offender. A release under Subsection 108.04.a.vi. must be current, within six (6) months. (1-4-02)
 - vii. Pre-sentence investigation reports, addenda, and the information contained in or attached to the reports, shall not be disclosed to any person except as provided by Idaho Rules of Criminal Procedure; (1-4-02)
 - viii. NCIC and ILETS records, FBI/CIB identification sheets, police reports, and drivers services sheets; (1-4-02)
 - ix. Medical, counseling and treatment records. Notwithstanding this exemption, an offender's medical, counseling and treatment records shall be disclosed to the offender's attorney of record in his criminal case, or the offender's private professional health care provider, provided that the attorney or the health care provider submit a release for these records, on his letterhead,

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

**Docket No. 06-0101-0701
FINAL RULE**

signed by the offender. A release under Subsection 108.04.a.ix. must be current, within six (6) months; (1-4-02)

b. Records exempt in part, subject to redaction: (1-4-02)

i. Records that contain any identifying information or any information that would lead to the identification of any victims or witnesses; (1-4-02)

ii. Records of the Department containing the names and addresses of confidential informants, or containing information identifying confidential informants; (1-4-02)

iii. Department intelligence reports of offender criminal activity, that if disclosed would jeopardize public safety, the safety of confidential informants, offenders and staff, and the security of the facility; (1-4-02)

iv. Records that identify or would lead to the identification of a date, time, or a place of future transportation or movement of a prisoner; (1-4-02)

v. Department investigatory records, to the extent that disclosure of such records would interfere with enforcement proceedings, deprive a person of the right to a fair trial or impartial adjudication, disclose the identity of a confidential source or confidential information furnished only by the confidential source, disclose investigative techniques or procedures, or endanger the life or physical safety of any person. This exemption shall not preclude release of the following information: (1-4-02)

(1) The time, date, location, and nature and description of a reported crime, accident or incident; (1-4-02)

(2) The name, sex, age, and address of a person arrested, except as otherwise provided by law; (1-4-02)

(3) The time, date, and location of the incident and of the arrest; (1-4-02)

(4) The crime charged; and (1-4-02)

(5) Documents given or required by law to be given to the person arrested. (1-4-02)

vi. Employee personnel records. (1-4-02)

05. Records of Civil Commitments. Civil commitment records differ in confidentiality from other offender records in that the civilly committed individual may not be convicted of a crime or may be held in a Department facility for reasons other than criminal conviction. Requests for information from the file of a civilly committed individual may be referred to Department legal counsel to determine applicability of federal and state statutes or court rules pertaining to individual privacy and the public's right to know. (1-4-02)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION
Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

(BREAK IN CONTINUITY OF SECTIONS)

110. MEDIA AND PUBLIC RELATIONS.

01. Intent of the Board. It is the intent of the Board that the Department keep the public well informed of its activities and maintain a consistently high community rapport through public presentations and special programs. (11-5-99)

02. Interviews. Requests for an interview with an inmate will be referred to the public information officer. Media representatives requesting an interview with an inmate will be informed of Department ~~Policy and Procedure~~ 110 - Media & and Public Relations, and any related directive or standard operating procedure. No face-to-face or on-camera interviews with inmates will be permitted in Department facilities. (~~11-5-99~~)(10-5-07)

a. The director may grant exceptions to the no face-to-face or on-camera interview rule on a case-by- case basis. No exceptions may be granted to inmates sentenced to death. Access to inmates under sentence of death is governed by Section 19-2705, Idaho Code. (~~11-5-99~~)(10-5-07)

b. The director, ~~administrator~~ chief of the division, or head of the facility where the inmate is housed may deny the interview request. (~~11-5-99~~)(10-5-07)

c. The inmate will be informed of the request for interview and the nature of the interviewer's interest. The inmate may accept, decline or modify the request for interview. Requests for an interview an inmate will be accommodated by a collect telephone call from the inmate to the media representative. An inmate accepting a request for interview will be provided with the interviewer's telephone number and any specific time frame requested for the interview. (11-5-99)

d. Media coverage of program activities may include brief comment by inmate participants, which are not considered inmate interviews subject to Subsection 110.01. (11-5-99)

111. -- 115. (RESERVED).

116. CUSTODY OF EVIDENCE.

01. Evidence Retained. Items of evidence retained by the Department for use in any proceeding concerning an offender shall be maintained in a safe and secure manner until completion of the proceedings, including appeal. A member of the public claiming an interest in an item of evidence may file a written request with the Department for its return. (11-5-99)

02. Drugs Disposed Of. Items of evidence in the form of narcotics or other usable drugs shall be given to a law enforcement agency for disposal. (11-5-99)

03. Contraband Not Returned. Items of evidence which are now contraband or were contraband at the time they came into the possession of the Department shall not be given to any claimant but may be disposed of according to ~~law~~ the Department's standard operating

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

procedures.

~~(11-5-99)~~(10-5-07)

(BREAK IN CONTINUITY OF SECTIONS)

123. PUBLIC VISITS AND TOURS OF FACILITIES.

The Department may allow tours of facilities and property according to procedures approved by the director (also see Section 511). Tours will generally take place during normal business hours or at times which ensure the safety and convenience of the facility or Department property.

~~(11-5-99)~~(10-5-07)

01. Persons Subject to Facility Rules and Regulations. All persons touring a facility or Department property are subject to the rules, policies, ~~procedures~~, directives, standard operating procedures, and field memoranda regarding ~~visitation~~ facility access, which Department are to be explained by the guides shall explain prior before ~~to~~ the beginning of the tour.

~~(11-5-99)~~(10-5-07)

a. All persons touring a facility or Department property may be subject to search (also see Section 510). Discovery of any contraband, as defined in Subsection 010.08, shall be grounds for immediate termination of the tour and referral to local law enforcement for possible prosecution of a criminal offense.

~~(7-6-01)~~(10-5-07)

b. All persons touring a facility must be at least eighteen (18) years old or if under eighteen (18), must be accompanied by a parent or guardian or have written permission from the parent or guardian, unless approved by the director or designee.

(11-5-99)

02. Attendance at Events. Under certain circumstances and with an invitation from a Department employee, an individual may attend athletic games and various other events held at a facility as long as ~~Attendance shall~~ does not interfere with penological interests (Also see Sections 601 and 607).

~~(11-5-99)~~(10-5-07)

124. -- 133. (RESERVED).

134. RESEARCH REQUESTS.

The Board may allow access to records, employees and offenders in the custody of the Board for purposes of appropriate and ethical research relevant to the Board's penological interests.

(11-5-99)

01. Archival Research. Archival research which is based solely on data collection from an existing data base will be conducted according to Idaho public records laws. (11-5-99)

02. Research Conducted on Offenders. Research conducted on offenders may be conducted by professional researchers, including private consultants and Department employees, graduate students supervised by graduate level professionals, or undergraduate students supervised by Department staff undertaking research projects implemented and designed by Department administrators.

(11-5-99)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

03. ~~Written Proposals~~ Required Documentation. A ~~Written proposals~~, a copy of the Internal Review or Human Subject Review Board approval, and a copy of the consent form will be required for all requests to conduct research with offenders. ~~The proposal~~ Required documentation will be initially submitted to the facility head, or designee, of the site where research is to take place. ~~Written proposals~~ Required documentation must be submitted ninety (90) days prior to the proposed research start date. ~~(11-5-99)~~(10-5-07)

a. The written proposal will include a statement of the significance of the study, a research hypothesis or problem statement, an estimate of the time parameter for the project's completion, and a clear statement of the research methodology, a definition of the population, the sample selection, the design, ethical procedures, a discussion on dissemination of written research reports and legal parameters. (11-5-99)

b. ~~The Written proposals, copy of the Internal Review or Human Subject Review Board approval, and copy of the consent form~~ will be reviewed by the facility head, or designee, of the site where the research is to take place. ~~Proposals~~ These documents will be reviewed for compatibility with Department goals, programs and needs for research. ~~Proposals~~ In addition, these documents may be rejected or returned for resubmission because there is a lack of compatibility with stated Board or Department goals, programs and needs for research, the research is inappropriate for conducting under the auspices of the Board or Department, or there is a failure to meet the required proposal criteria. ~~(11-5-99)~~(10-5-07)

c. Department employees conducting research at the request of the Department and professional researchers retained by the Department may be exempt from the requirement to submit a written research proposal. (11-5-99)

d. Department employees who wish to conduct research not requested by the Department must submit the required documentation noted in Subsection 134.03. (10-5-07)

~~de.~~ Acceptable research proposals will be forwarded to the ~~division administrator~~ chief of the division where the research is to take place for final approval. Certain projects involving offenders should be approved with minimal review. Those projects include: ~~(11-5-99)~~(10-5-07)

i. Research conducted in a manner that does not link information gathered to the identity of the participants; (11-5-99)

ii. Research on regular and special instructional techniques; (11-5-99)

iii. Research involving the administration of standard tests, when information from the tests cannot be linked to the identities of the subjects; and (11-5-99)

iv. Research involving surveys or interview procedures where the responses cannot be identified back to the respondents. (11-5-99)

04. Rights of Offenders. The rights and welfare of any offender research subjects will be safeguarded at all times. (11-5-99)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

05. Use of Offenders in Medical Experimentation Prohibited. The use or participation of offenders in medical, pharmaceutical or cosmetic experiments is expressly prohibited. (11-5-99)

06. Written Report Required. The principal researchers shall be required to provide the Department with a copy of the completed research results. (11-5-99)

07. Termination of Project. The director, any division ~~administrator~~ chief, facility head, or designee may terminate approved research at any time for noncompliance with any rule, ~~P~~policy or ~~P~~procedure, directive, or condition previously agree upon, or for cause generated by an emergency situation or at the discretion of the director. (~~11-5-99~~)(10-5-07)

135. EXECUTIONS.

01. Personnel Assigned to Execution. Idaho Maximum Security Institution personnel will carry out the execution warrant. The facility head of the Idaho Maximum Security Institution shall be the official executioner. (11-5-99)

02. Method of Execution. Execution of the sentence of death shall be by lethal injection. If the director determines that a competent lethal injection team cannot be assembled, execution shall take place by firing squad. (11-5-99)

03. Media Coordination. Department personnel will coordinate media activity and provide logistics and communications support. A media center shall be established. The pre-execution briefing will be delivered in the media center. Media witnesses will be chosen pursuant to Department procedure. The selection of media witnesses will occur in the media center. The post-execution briefing will occur in the media center. (11-5-99)

04. Public Information Officer to Handle Media Requests. The director will designate a public information officer to deal with execution-related media requests and releases of information. (11-5-99)

05. Parking and Demonstration Areas Provided. Areas for public and media parking will be provided and maintained in a secure manner. Areas for public gathering and demonstration of support or opposition to the death penalty will be provided and maintained in a secure manner. (11-5-99)

06. Witnesses to the Execution. An area will be provided for the gathering of official witnesses and media witnesses immediately prior to the scheduled execution. A total of twenty-one (21) occupants is the limit in the execution viewing area at one (1) time. Persons allowed in the execution viewing area during the execution procedures are: (11-5-99)

a. The injection team as identified by the facility head of the Idaho Maximum Security Institution; (11-5-99)

b. The director, the ~~administrator~~ chief of the ~~Division of Prisons~~, and the facility head of the Idaho Maximum Security Institution; (~~11-5-99~~)(10-5-07)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

- c. The coroner; (11-5-99)
- d. The sheriff from the county of conviction; (11-5-99)
- e. The prosecuting attorney from the county of conviction; (11-5-99)
- f. A spiritual advisor of the inmate's choosing; (11-5-99)
- g. The sentencing judge; (11-5-99)
- h. A representative from the Governor's office; (11-5-99)
- i. The Attorney General or his representative; (11-5-99)
- j. A representative from ~~the~~ Board; and (~~11-5-99~~)(10-5-07)
- k. The news media pursuant to Subsection 135.03. A maximum of seven (7) news media may attend as witnesses. (11-5-99)

~~136. (RESERVED).~~

~~137. COUNTY JAIL BED SPACE ASSESSMENT.~~

~~The department shall biannually assess and review the county jails to determine bed space available for state sentenced prisoners.~~ (~~11-5-99~~)

~~138. -- 301. (RESERVED).~~

302. HOUSING INMATES IN ~~NON-DEPARTMENT~~ COUNTY FACILITIES.

01. Payment of Daily Fee. The Department shall pay an Idaho county housing ~~a state sentenced~~ an inmate committed to the custody of the Board a daily fee as established by Section 20-237A, Idaho Code. The fee shall accrue and become payable beginning on the day after the county sheriff provides the notification required by Subsection 302.02. (~~11-5-99~~)(10-5-07)

a. The fee includes the ordinary daily expenses of housing an inmate, including room and board. (11-5-99)

b. The Department will pay for all ordinary medical and dental expenses of ~~state inmates~~ committed to the custody of the Board subject to the provisions of Subsection 302.05. (~~11-5-99~~)(10-5-07)

c. The Department shall not make payment for inmates held on pending charges, inmate workers, trustees, and inmates held under court-ordered jurisdiction. (11-5-99)

02. Notification of New Commitment. Upon receiving into his custody an inmate sentenced to imprisonment and committed to the custody of the Board, the sheriff shall notify the Department. ~~The~~ Notification shall be made by sending a copy of the judgment of conviction to

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

the Department by certified mail or facsimile ~~transmission of a copy of a judgment of conviction.~~
(11-5-99)(10-5-07)

03. Accepting the Inmate for Transport to a Department Facility. (11-5-99)

a. A newly sentenced and committed inmate shall not be accepted for transport from a county jail to a Department facility unless the notification required by Subsection 302.02 has been made or unless the director or his designee authorizes the transport in writing; and (11-5-99)

b. If a sheriff moved ~~s an~~ state-sentenced inmate committed to the custody of the Board to the jail of another county, the sheriff must immediately ~~notified~~ notify the Department.
(11-5-99)(10-5-07)

c. Prior to the date of the transport of the inmate from a county jail to a Department facility, the sheriff shall have sent the following information about the inmate to the Department central records bureau:
(11-5-99)(10-5-07)

i. Judgment and commitment orders from the court; (11-5-99)

~~ii. Pre-sentence investigation report, if any;~~ (11-5-99)

iii. Jail disciplinary and incident reports, if any; and (11-5-99)

~~i+ii.~~ Medical and psychological files. (11-5-99)

04. **Conditions of Confinement.** The policies and guidelines of the ~~non-department facility county jail~~ shall ~~govern the conditions of the inmate's confinement~~ apply while the inmate is confined at the ~~non-department facility county jail~~, except as may be modified by this section or agreement between the Board and the ~~non-department facility county jail~~. (11-5-99)

05. **Medical, Dental, Psychological and Psychiatric Care.** Delivery of routine medical, dental, psychological, and psychiatric services shall be the responsibility of the jail where the inmate is held, however, the Department's health authority shall have the responsibility for approving medical, dental, psychological, and psychiatric health care payments for inmates committed to the custody of the Board and housed in non-department facilities county jails. ~~Delivery of routine medical, dental, psychological and psychiatric services shall be the responsibility of the facility where the inmate is held.~~
(11-5-99)(10-5-07)

a. All medical services for an offender housed in a ~~non-department facility county jail~~ delivered outside the ~~non-department facility county jail~~, including consultant appointments, scheduled hospitalizations, and dental care, shall be approved by the health authority, or designee prior to occurring, except as noted in ~~this~~ Subsection 302.05.
(11-5-99)(10-5-07)

b. The health authority, or designee, shall be notified the next working day of any emergency services. (11-5-99)

c. Any extraordinary treatment shall be approved by the health authority prior to treatment. Emergency care, which requires possible transport of the inmate out-of-state, requires

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

prior approval by the health authority, or designee.

~~(H-5-99)~~(10-5-07)

d. Failure to make the notifications required by ~~this~~ Subsection 302.05 to the health authority or designee will result in the ~~non-department facility~~ county jail being held responsible for any charges or expenses incurred.

~~(H-5-99)~~(10-5-07)

e. Transportation of the inmate to and from appointments shall be the responsibility of the ~~non-department facility~~ county jail. An ~~state-sentenced~~ inmate committed to the custody of the Board shall not be left without security escort, except as may be approved by the director or designee.

~~(H-5-99)~~(10-5-07)

06. Transporting Inmates. The Department will transport newly committed inmates from the county jail to a Department destination determined by the Department. The sheriff shall transport inmates from a Department facility to the county jail when a court appearance is ordered. Other transport arrangements may be made between the Department and the sheriff ~~or non-department facility head~~.

~~(H-5-99)~~(10-5-07)

07. Inmate Work Assignments. Inmates committed to the custody of the Board who are being held in county jails ~~or other non-department facility~~ may be assigned to work assignments or work projects subject to ~~this~~ Subsection 302.07. No inmate shall be assigned to a work assignment or project outside of the secure perimeter of the jail ~~or non-department facility~~. An inmate shall not be outside of the secure perimeter of the jail ~~or non-department facility~~ when not directly supervised or escorted by security personnel, except upon approval of the director or designee.

~~(H-5-99)~~(10-5-07)

(BREAK IN CONTINUITY OF SECTIONS)

402. CORRESPONDENCE WITH INMATES.

01. Incoming Mail. ~~All incoming mail shall be opened and inspected to make sure that it is not contrary to penological interests or is not obscene~~ ensure it does not contain prohibited items as described in Section 402. Mail may be withheld subject to the provisions of Subsection 402.064 and 402.05.

~~(H-5-99)~~(10-5-07)

a. Books, magazines, and newspapers may only be received directly from a legitimate publisher or other legitimate business source. Legitimacy of the source shall be in the sole discretion of the facility head or designee.

~~(H-5-99)~~(10-5-07)

b. ~~Incoming mail with stickers, stamps (other than cancelled postage) or other articles affixed that can be used to conceal contraband will be refused and returned to the sender~~ Any cash, money order, or cashier's check enclosed will be credited to the inmate's trust account, except that money or other forms of exchange hidden or concealed in the correspondence shall be considered contraband and confiscated. Unapproved items of value not otherwise contraband must be returned to the sender at the inmate's expense within forty-five (45) days or they will be considered contraband and confiscated.

~~(H-5-99)~~(10-5-07)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

02. ~~General~~ Legal Mail. ~~All incoming general mail shall be opened, inspected and may be read. Any cash, money order, or cashier's check enclosed will be credited to the inmate's trust account, except that money or other forms of exchange hidden or concealed in the correspondence shall be considered contraband and confiscated. Unapproved items of value not otherwise contraband must be returned to the sender at the inmate's expense within forty five (45) days or they will be considered contraband and confiscated.~~ Legal mail is confidential communication directly between an offender and an attorney, the court, and per court rules, opposing parties for service of documents and sheriff offices for service of documents.

~~(H-5-99)~~(10-5-07)

a. To be recognized and treated as legal mail, correspondence from a legal source must be clearly marked "Legal Mail" and display the name, title and address of the sender.

(10-5-07)

b. Mail that does not meet the requirements of Section 402 shall be treated as regular mail.

(10-5-07)

c. Legal mail should be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of Section 402, Department policies, or division standard operating procedures.

(10-5-07)

d. Legal mail that violates the provisions of Section 402, Department policies, or division standard operating procedures may be withheld.

(10-5-07)

e. Any sender of legal mail that violates the provisions of Section 402, Department policies, or standard operating procedures may, at the sole discretion of the division chief, have all incoming and outgoing mail treated as regular mail.

(10-5-07)

f. Any sender of legal mail that continues to violate the provisions of Section 402, Department policies, or standard operating procedures (or in the case of mail that is a serious threat to the secure and orderly operation of any Department facility) may not, at the sole discretion of the division chief, have his mail delivered to the inmate, and the inmate may also be restricted or prohibited from sending or receiving mail.

(10-5-07)

03. Confidential Mail. ~~To be recognized and treated as confidential, mail from a confidential source shall be clearly marked with the name, title and address of the sender. Mail which does not meet the requirements of this section shall be treated as general mail~~ Confidential mail includes correspondence sent to or received from persons or entities such as the following: the President of the United States, the governor, the Idaho Legislature or U.S. Congress (except for bulk mailings), the Board, the director, IDOC chiefs and deputy chiefs, facility heads, public interest groups or government entities providing assistance for offenders, the Idaho Commission of Pardons and Parole or any member thereof, or the Consulate or Embassy of an offender who is a foreign national.

~~(H-5-99)~~(10-5-07)

a. ~~Confidential mail should be opened in the presence of the inmate~~ To be recognized and treated as confidential, mail from a confidential source must be clearly marked "Confidential Mail" and display the name, title and address of the sender.

~~(H-5-99)~~(10-5-07)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

b. ~~Confidential mail should not be read, except that confidential mail be read by the facility head, or designee, if there is a reasonable suspicion that the content of the confidential mail violates Section 402, contains contraband or otherwise compromises penological interests~~ Mail that does not meet the requirements of Section 402 shall be treated as regular mail. Confidential mail should be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of this section, Department policies, or division standard operating procedures. ~~(11-5-99)(10-5-07)~~

c. ~~Correspondence between an attorney and an inmate client will be treated as confidential and not read if it meets the following criteria:~~ Confidential mail that violates the provisions of Section 402, Department policies, or division standard operating procedures may be withheld. ~~(11-5-99)(10-5-07)~~

i. ~~The envelope containing the correspondence shall be clearly marked on its face with the words "Confidential Legal Mail";~~ ~~(11-5-99)~~

ii. ~~The correspondence shall be clearly marked on its face with the words "Attorney-Client Confidential Communication"; and~~ ~~(11-5-99)~~

iii. ~~The inmate recipient shall not disclose the correspondence to any third person and shall store the correspondence in the inmate's allowed legal property or in a secure area provided by the facility for the storage of excess legal material. Failure to comply with this section shall waive any privilege or confidentiality in the correspondence.~~ ~~(11-5-99)~~

d. ~~Any confidential sender who includes contraband in an otherwise confidential correspondence or who shall assist or aid an offender in attempting to, or succeeding in, circumventing or violating any Board or Department rule, policy, procedure, directive, field memorandum, or other lawful guideline or order may, at the discretion of the administrator of the division governing the facility where the inmate was housed at the time the mail was received, have all future correspondence treated as general mail~~ Any sender of confidential mail that violates the provisions of Section 402, Department policies, or standard operating procedures may, at the sole discretion of the facility head, be restricted or prohibited from sending mail to or receiving mail from any inmate. ~~(11-5-99)(10-5-07)~~

e. Any sender of legal mail that continues to violate the provisions of Section 402, Department policies, or standard operating procedures (or in the case of mail that is a serious threat to the secure and orderly operation of any Department facility) may not, at the sole discretion of the division chief, have his mail delivered to the inmate, and the inmate may also be restricted or prohibited from sending or receiving mail. ~~(10-5-07)~~

04. Prohibited Mail. Mail, including a publication, which poses a threat to the penological interests of the Board or Department, may be withheld from the inmates. Contraband will always be withheld without regard to this section. The Board has determined that some types of mail always pose a threat to penological interests. The following types of materials are prohibited: ~~(11-5-99)(10-5-07)~~

a. ~~That which describes how to obtain, build or manufacture drugs, intoxicants,~~

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

~~weapons or explosives~~ Items in a letter or package not authorized by policy or division standard operating procedures; ~~(H-5-99)~~(10-5-07)

b. ~~That which concerns, invites, advocates, aids or abets escapes, riots, insurrections, threats of physical harm to another person, threats of criminal activity, or plans to send contraband into the facility~~ Packages without prior authorization; ~~(H-5-99)~~(10-5-07)

c. ~~That which is obscene~~ Publications or items that describe the manufacture of weapons, bombs, explosives, alcohol and drugs, drug paraphernalia, or escape materials; ~~(H-5-99)~~(10-5-07)

d. ~~That which is in code~~ Information related to the crime or identity of another offender; and ~~(H-5-99)~~(10-5-07)

e. ~~Other materials, which in the opinion of the facility head, present a threat to penological interests.~~ Promotional items such as fragrance packs, CDs, computer software, stickers, handbags, T-shirts, baseball caps, in publications, magazines, periodicals etc. (Promotional items will be destroyed and the publication will be forwarded so that the mail process is not delayed); ~~(H-5-99)~~

f. Fourth class mail/bulk mail; (10-5-07)

g. More than one (1) subscription to the same periodical, magazine, etc.; (10-5-07)

h. Publications or items evidencing gang involvement or activities (enemy lists, constitutions, structures, codes, signs, symbols, photographs, drawings, training material, clothing, etc.); (10-5-07)

i. Publications or items advocating that any ethnic, racial, or religious group is inferior or that make such groups an object of ridicule and scorn. However, no publication will be withheld solely because of its appeal to a particular ethnic, racial, or religious group; (10-5-07)

j. Publications or items that encourage violence between recipients and members of another group; (10-5-07)

k. Publications not mailed direct from the publisher or a bookstore; (10-5-07)

l. Clippings from magazines, books, or newspapers; (10-5-07)

m. Postage stamps or envelopes. (Postage stamps are allowed at CWC facilities if the CWC does not have commissary services); (10-5-07)

n. Greeting cards that are padded, laminated, musical, or larger than eight inches by ten inches (8" x 10"); (10-5-07)

o. Photographs larger than five inches by eight inches (5" x 8") and instant photographs, for example, "Polaroid type" with layers. Photocopies are not photographs and may be on standard eight and one-half inches by eleven inches (8.5" x 11") paper; and (10-5-07)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

p. Other materials, which in the opinion of the facility head, present a threat to penological interests. (10-5-07)

05. ~~List of Prohibited Publications~~ Prohibited Sexually Explicit and Pornographic Materials. ~~The Department may issue a list of publications which have been found to consistently violate the provisions of Section 402. These publications will be considered contraband and withheld without regard to and without further notice. The list shall be reviewed at least annually. A particular publication may be reviewed at any time upon a showing that there has been a change in content which removes the reason for the need to withhold the publication.~~ Nudity, sexually explicit, and pornographic materials are prohibited. Written material of a sexual nature is permitted and is not included in this definition. Publications that do not feature nudity, but contain nudity illustrative of medical, educational, or anthropological content may be excluded from this definition. (H-5-99)(10-5-07)

a. Prohibited materials include pictorial depictions in books, pamphlets, magazines, periodicals, any other graphic images, or any other publication or any personal pictures, drawings, or any other graphic depiction, or photocopies of any of these items. (10-5-07)

b. Publications, drawings, photocopies, and other pictorial materials that meet the description of nudity in this section, but the person has clothing or other covering that is transparent or virtually transparent are not permitted. (10-5-07)

i. Nudity means a pictorial or graphic images depicting male or female genitalia, anus, or where the nipples or areola of female breasts are exposed; (10-5-07)

ii. Feature means that a publication contains pictorial depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues; and (10-5-07)

iii. Sexually explicit means a pictorial depiction of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation. (10-5-07)

06. Withholding of Prohibited Material. ~~Whenever incoming mail may contain prohibited material as defined herein the facility head shall review the material to determine if it is prohibited or should otherwise be withheld. If it is not to be withheld, it shall be delivered to the inmate. If the facility head determines that the mail should be withheld, the sender shall be given notice that the material was withheld. The sender shall be given notice that the sender may contest the withholding by contacting the facility head, in writing, within fourteen (14) days of the date the notice is sent to the sender.~~ Any incoming mail suspected of containing any prohibited material defined in this section shall be withheld and reviewed by the facility head or designee to determine if it should be withheld or delivered to the inmate. If the facility head determines that the mail should be withheld, the offender will be given written notice. The offender may use the Department grievance procedure to contest the decision. (H-5-99)(10-5-07)

403. INMATE RELIGIOUS PRACTICES.

Inmates should have the opportunity to practice the tenets of their respective religious faiths, including access to religious publications, to representatives of their faiths, and to religious

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

counseling, so long as those religious practices do not conflict with *penological interests* a compelling government interest. If compelling governmental interests exist to restrict an offender's religious practice, the Department will use the least restrictive means possible as determined by Department officials in accordance with Department policies, standard operating procedures, and good correctional practice. The Department may provide access to religious practices through volunteers in accordance with Section 606. ~~No person shall serve as a religious volunteer who is also on an inmate's visiting list.~~ The Department may develop guidelines and procedures for the conducting of religious activities. (11-5-99)(10-5-07)

404. (RESERVED).

405. ~~ATTORNEY VISITS AND COURT PROCEEDINGS~~ WITHIN A FACILITY.

~~01. **Attorney Visits With Inmates.** An inmate's attorney of record or approved legal assistant may visit with the inmate client consistent with Section 405. Attorneys and their agents shall comply with Section 604 and all facility regulations and directives governing visiting. The facility head or designee may prohibit a visit if there is reason to believe the visit would present a threat to penological interests or if the attorney or approved legal assistant fails to act in an ethical manner. The facility head shall determine whether the visits are to be contact or non-contact visits, except as set forth in Subsection 405.03.~~ (11-5-99)

~~02. **Visiting Hours.** Visiting hours shall be designated and posted by the facility head. Visiting shall normally be allowed Monday through Friday, from 8 a.m. through 4 p.m., subject to penological interests. Special visiting hours may be approved by the facility head or designee. Visits must be scheduled twenty-four (24) hours in advance.~~ (11-5-99)

~~03. **Visits with Death Sentenced Inmates.** Visits between death sentenced inmates and attorneys shall be made in substantial compliance with Sections 19-2705 and 19-2706, Idaho Code. Attorneys and their agents shall comply with Section 604 and all facility regulations and directives governing visiting.~~ (11-5-99)

~~04. **Visits with Groups of Inmates.** Visits with groups of inmates shall not be permitted unless verification of class certification or co-parties has been determined in advance through the Office of the Attorney General. Staff shall directly supervise group visits between groups of inmates and attorneys or approved legal assistants.~~ (11-5-99)

~~05. **Court Proceedings Within a Facility.** The Department may make a conference or court room within a facility available to a state or federal court for the purpose of holding a hearing or trial upon a claim involving an inmate or group of inmates when doing so will not be contrary to penological interests. The facility head, in his sole discretion, may allow members of the public who are not witnesses to the proceeding in to the facility to observe the proceeding when in the opinion of the facility head doing so will not be contrary to penological interests. (Also see Sections 510, 511, and 604.)~~ (11-5-99)(10-5-07)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

(BREAK IN CONTINUITY OF SECTIONS)

510. SEARCHES OF PERSONS AND VEHICLES ENTERING DEPARTMENT FACILITIES.

In order to maintain the secure and orderly operation of the facilities, the Department shall control access to all Department facilities. All persons enter upon or in to a Department property or facility at their own risk and will be required to comply with security and control measures. (Also see Section 511.) ~~(11-5-99)~~(10-5-07)

01. Persons Subject to Search. All persons and vehicles entering a facility or upon Department property are subject to search. (11-5-99)

02. Photo Identification Required. ~~All persons~~ Adults entering a facility or upon Department property ~~will be~~ are required to possess and present, on demand, photo identification. The Department will establish identification procedures for minor children in standard operating procedures. (Also see Section 604.) ~~(11-5-99)~~(10-5-07)

03. Contraband Prohibited. Any person who ~~shall~~ brings or attempts to bring any item or article of contraband ~~on to or~~ into a facility or ~~upon~~ onto Department property ~~shall will~~ be subject to arrest and prosecution pursuant to Section 18-2510, Idaho Code. ~~(11-5-99)~~(10-5-07)

a. Members of the public bringing contraband on to or in a facility or Department property during a visit, tour or other sanctioned activity ~~shall will~~ be subject to immediate and permanent cancellation of the visit, tour or other sanctioned activity. ~~(11-5-99)~~(10-5-07)

b. Vendors, contractors, interns, volunteers or employees bringing contraband on to or in a facility, Department property or inmate work site ~~shall will~~ be subject to immediate termination of services as a vendor, contractor, intern, volunteer or employee. ~~(11-5-99)~~(10-5-07)

511. ACCESS TO DEPARTMENT FACILITIES.

~~Members of the public shall not have access to any facility or upon Department property except upon approval of the director, administrator of the division governing the facility, the facility head, or their designee. Persons entering on to or in a facility or~~ The Department shall not allow public access to any Department property or facility without approval of the director, division chief, facility head, or designees. The Department considers any person who enters onto Department property or into a facility without approval shall be considered to be trespassing and may be prosecuted according to law subject to arrest and prosecution pursuant to Idaho Code. (Also see Section 510.) ~~(11-5-99)~~(10-5-07)

01. Access and Egress Control. The Department will establish standard operating procedure to control access to and egress from all Department properties and facilities. (10-5-07)

02. Persons Subject to Search. All persons entering onto Department property or into facilities are subject to search (see Section 510). (10-5-07)

512. -- 600. (RESERVED).

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

601. PUBLIC PARTICIPATION IN INMATE ATHLETIC EVENTS.

Members of the public may participate in and compete against inmates in athletic events held within or without a facility upon the written approval of the ~~administrator~~ chief of the division governing the facility. Such competition shall not interfere with inmate work or training programs. (Also see Sections 123, 510, and 511.) ~~(11-5-99)~~(10-5-07)

602. -- 603. (RESERVED).

604. VISITING INMATES.

01. No Right to Visit Established. Nothing in Section 604 establishes a right to visit any inmate. Nothing in Section 604 should be interpreted as an expectation that visitation will be approved between any person and any inmate if the Department has suspended, terminated, or revoked a visitor or inmate's visiting privileges. (Also see Sections 405, 510, and 511.) (10-5-07)

02. Visitation at the Discretion of the ~~Facility Head~~ Department. Inmate visitation is allowed at the discretion of the facility head, or designee. Each division ~~and each facility~~ may ~~promulgate directives or~~ develop standard operating procedures and field memoranda to govern inmate visiting. Whether a visit is contact or non-contact ~~shall will~~ be ~~in the sole~~ at the discretion of the facility head, in accordance with standard operating procedures ~~subject to Subsection 405.03.~~ ~~(11-5-99)~~(10-5-07)

023. Visitation Lists. To visit an inmate, a person must apply with the facility, on an approved Department form ~~supplied by the facility, to be on the inmate's visiting list.~~ Only persons approved to be on an inmate's visiting list may visit with an inmate, except as noted in Subsection 604.034. ~~(11-5-99)~~(10-5-07)

a. ~~Upon approval to be on the inmate's visiting list, the person shall be given a copy of the facility's guidelines governing visiting within the facility~~ Visitors are responsible for reading and following the Department's rules that govern visiting. The rules can be found at the Department's website or they can be obtained at the facility visiting room during visiting hours. ~~(11-5-99)~~(10-5-07)

b. A person applying to visit an inmate ~~shall be~~ is subject to a criminal background investigation and check for outstanding warrants. ~~(11-5-99)~~(10-5-07)

034. One-time and Special Visits. The facility head, ~~in his sole discretion,~~ or designee may approve a one-time or special ~~one-time inmate~~ visit between an inmate and a person who is not on the inmate's visiting list ~~and the inmate if doing so will not be contrary to penological interests.~~ Guidelines for approving one-time and special visits are provided in standard operating procedures. Application to the facility head for a one-time or special visit ~~shall~~ must be made at least twenty-four (24) hours ~~prior to~~ before the visit. ~~(11-5-99)~~(10-5-07)

045. Restricted Visitors. The following people ~~shall~~ will not be granted permission to visit an inmate, except as noted in Subsection 604.05: ~~Nothing in this section shall be construed to grant a right to visit or as a guarantee that an application for visiting will be approved after the minimum period stated or when the other stated conditions are met. Nothing in Section 604 shall grant a right to visit on behalf of an inmate.~~ ~~(11-5-99)~~(10-5-07)

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

a. ~~A former inmate shall not be approved for visiting unless the former inmate is the immediate family of the inmate and a minimum of six (6) months has passed from the former inmate's release from confinement.~~ Applications to visit from former inmates will be considered on an individual basis. Guidelines for approval are provided in standard operating procedures.

(11-5-99)(10-5-07)

b. A probationer or parolee shall not be approved for visiting until a minimum of six (6) months ~~from~~ has passed since release to probation or parole and then only with the written approval of the supervising probation or parole officer ~~in addition to the approval of and~~ the facility head or designee.

(11-5-99)(10-5-07)

c. ~~A minor shall not visit an inmate.~~ Minor children are not allowed to visit an inmate unless the minor is the immediate family of the inmate. A minor must be accompanied at all times during the visit by a parent, ~~or~~ legal guardian, or state-appointed case manager. ~~Proof of legal guardianship may be required by the facility head.~~ A minor claiming relationship to the inmate as a stepchild cannot visit unless the visiting parent obtains and files with the facility head a signed statement from the other natural parent authorizing and giving permission for the visit with the inmate. If the other natural parent's whereabouts are unknown, the parent making application is responsible for establishing, to the satisfaction of the facility head, the unavailability of the other natural parent. Guidelines for submitting visiting applications for minor children are provided in standard operating procedures.

(11-5-99)(10-5-07)

i. ~~A minor who was the victim of a crime enumerated in Sections 18-8304 and 19-5506, Idaho Code, whether conviction resulted or not, shall not visit an inmate except upon express written recommendation of a licensed counselor in furtherance of the counseling process and when it is in the best interests of the minor. What is in the best interest of the minor shall be determined at the discretion of the facility head.~~

(11-5-99)

ii. ~~A minor claiming relationship to the inmate as a stepchild shall not visit unless the visiting parent obtains and files with the facility head a signed statement from the other natural parent, if available, authorizing and giving permission for the visit with the inmate. The visiting parent shall be responsible to establish to the satisfaction of the facility head the unavailability of a natural parent.~~

(11-5-99)

d. ~~An inmate who was convicted of any crime enumerated in Sections 18-8304 and 19-5506, Idaho Code, as the terms "crime" and "conviction" are defined in Sections 18-8304 and 19-5506, Idaho Code, where the victim of the crime was a minor shall not~~ A minor child who was the victim of a violent or sexual crime where the inmate was the perpetrator of the crime, whether a conviction resulted or not, cannot visit ~~with any minor except when it is in the best interests of the minor. What is in the best interest of the minor shall be determined at the discretion of the facility head.~~ the inmate unless all of the following conditions in Subsections 604.05.d.i. through 604.05.d.iii. are met:

(11-5-99)(10-5-07)

i. A written recommendation is submitted from a licensed counselor who provided counseling to the child, indicating the visit will enhance the counseling process and is in the child's best interest. The recommendation must include the length of time the counselor provided counseling to the victim, the counselor's training and experience in counseling victims of violent

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

and/or sexual crimes, and why it is now in the best interest of the child to allow visitation with the inmate. (10-5-07)

ii. The visitation request must be approved by the facility head, based on the best interest of the minor child. What is in the best interest of the minor will be determined at the discretion of the facility head. (10-5-07)

iii. The facility head may impose additional visitation restrictions on inmates convicted of a violent or sexual crime when visiting minor children. (10-5-07)

e. A Department employee, volunteer, vendor, intern, or contractor ~~shall~~ cannot visit an inmate, ~~except if~~ unless the Department employee, volunteer, vendor, intern, or contractor is the immediate family of the inmate and the facility head ~~provides express written approval~~ approves the visiting application. ~~Upon termination of the relationship with the Department conferring the status of employee, volunteer, vendor, intern, or contractor, visiting shall not be approved with an inmate until a minimum of six (6) months from the date of termination of the relationship with the Department.~~ (10-5-07)

f. ~~A person shall not be on the approved visiting list for more than one (1) inmate at a time unless the person is the immediate family of all inmates. A person shall not be approved to visit an inmate if, within six (6) months prior to the current application, the person was an approved visitor on another inmate's visiting list~~ If a former Department employee, volunteer, vendor, intern, or contractor applies to visit an inmate and it is determined that the applicant violated any Department rule and/or Section of Idaho Code, the application will normally be denied. (10-5-07)

g. ~~A person claiming a relationship as immediate family of an inmate may be required to provide proof through documentation the existence of the relationship. The level of proof required shall be at the discretion of the facility head~~ If the applicant is not immediate family of the inmate, the applicant cannot visit an inmate unless the applicant terminates the relationship of employee, volunteer, vendor, intern, or contractor with the Department, and then the person cannot visit an inmate unless the chief of the division that governs the facility approves the visiting application. Nothing in this section guarantees that a former employee, volunteer, vendor, intern, or contractor will be approved to visit an inmate. (10-5-07)

h. A person ~~who has pending criminal charges or who is the subject of a criminal investigation~~ shall not be ~~permitted to visit an inmate, except upon express written approval of the facility head, or designee~~ on the approved visiting list for more than one (1) inmate at a time unless the person is the immediate family of more than one (1) inmate being visited. A person will not be approved to visit an inmate if, within six (6) months before the current application, the person was an approved visitor on another inmate's visiting list. (10-5-07)

i. A person claiming to be immediate family of an inmate may be required to provide proof of relationship through documentation. The level of proof required will be at the discretion of the facility head and in accordance with standard operating procedures. (10-5-07)

j. A person who has pending criminal charges or who is the subject of a criminal investigation will not be permitted to visit an inmate, except upon written approval of the facility

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

head or designee. (10-5-07)

056. Termination of Visits. A visit may be suspended, restricted, or terminated at any time, for any period of time; (including permanently), for violation of any; (10-5-07)

a. Board rule; (10-5-07)

b. Department Ppolicy, and standard operating Pprocedure, facility directive, or field memoranda; or (10-5-07)

c. At the discretion of the facility head or designee in accordance with standard operating procedures. (10-5-07)

d. Persons who have had visiting privileges permanently terminated permanently may apply to the administrator of the division governing the facility for reconsideration of the termination decision within fourteen (14) days from the termination of visiting to the chief of the division that governs the facility for reconsideration of the termination decision, and on an annual basis thereafter. (11-5-99)(10-5-07)

~~**06. No Right to Visit Conferred on Inmates.** Nothing herein shall be construed to confer any right to visit to or on behalf of any inmate. Nothing herein shall be construed to confer any expectation of visiting for any previously approved visitor with any inmate who has had visiting privileges revoked by the facility head or who is otherwise not allowed to visit. (11-5-99)~~

07. Attorney Visits With Inmates. An attorney or his approved agent may visit with an inmate consistent with this section. The facility head or designee may prohibit a visit if the visitor violates or attempts to violate any Department rules. The facility head shall determine whether the visits will be contact or non-contact visits. (Also see Sections 510 and 511.) (10-5-07)

08. Attorney Visiting Hours. The facility head will designate visiting hours for attorney visits, which will normally be Monday through Friday, from 8 a.m. through 4 p.m. The facility head or designee may approve special visiting hours. Visits must be scheduled twenty-four (24) hours in advance. (10-5-07)

09. Attorney Visits With Death Sentenced Inmates. Visits between inmates under the sentence of death and attorneys will be made in substantial compliance with Section 19-2705, Idaho Code. Attorneys and their agents shall comply with this Subsection 604.09 and all facility regulations, policies, and standard operating procedures governing visiting. (Also see Sections 510 and 511.) (10-5-07)

10. Attorney Visits With Groups of Inmates. Visits with groups of inmates will not be permitted unless the Office of the Attorney General has verified class certification or co-parties. Staff will directly supervise visits between groups of inmates and attorneys or their approved agents. (Also see Sections 510 and 511.) (10-5-07)

605. (RESERVED).

JUDICIARY RULES COMMITTEE

BOARD OF CORRECTION Rules of the Board of Correction

Docket No. 06-0101-0701
FINAL RULE

606. VOLUNTEER SERVICES.

01. Volunteer Services Established. The Department may establish a program of volunteer services within the facilities. Based on penological interests, volunteers may be used to enhance and expand inmate ~~programs~~ activities. ~~(11-5-99)~~(10-5-07)

02. Facility Head Approves Volunteers. The facility head shall be the approving authority for all volunteers. Each facility head may designate ~~a~~ staff members ~~to be responsible for coordination of~~ coordinate and oversee the volunteer program. ~~(11-5-99)~~(10-5-07)

03. Screening Process. The screening process for volunteers shall include a criminal background check. (11-5-99)

04. Orientation and Training. Orientation and training of volunteers shall include completion of a Department-approved training curriculum ~~approved by the director~~. ~~(11-5-99)~~(10-5-07)

05. Visiting With Inmates. Volunteers are not allowed to visit any inmate unless the inmate is an immediate family member of the volunteer. (Also see Sections 510, 511, and 604.) (10-5-07)

607. PUBLIC PARTICIPATION IN PROGRAM ACTIVITIES.

The public may participate in program activities with an inmate or group of inmates upon written approval of the facility head where the inmate is housed, if housed in a Department facility, or upon written approval of the ~~administrator~~ chief of the division of prisons, if housed in a ~~non-department~~ county facility. (Also see Sections 510 and 511.) ~~(11-5-99)~~(10-5-07)

609. -- 610. (RESERVED).

~~608. INMATE HOBBY CRAFT.~~

~~Inmate hobby craft items may be sold to the public in compliance with division of prison directives. Any such sales shall include an amount for taxes owed and an addition to defray costs incurred by the facility.~~ ~~(11-5-99)~~